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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,021	04/12/2005	Magnus Harnesk	PI7661-US2	2135
27045	7590	01/07/2008	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			SMITH, CREIGHTON H	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			01/07/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/531,021

Applicant(s)

HARNESK ET AL.

Examiner

Creighton H. Smith

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8,11,12,14,17-19,24,25 and 28 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,9,10,13,15,16,20-23,26 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 26.12.06 & 12.04.05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 7, 8, 9, 11, 18, 19, 24, 25, & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al, U.S. Patent Publication #2003/0152084 in view of Barham et al, U.S. patent #7,284,047.

Lee discloses in ¶-0018 that with the increase in volume and types of Internet applications, there has also been a demand for enhanced services in the form of Quality of Service (QoS). Best-effort services is the service currently used on the Internet. In ¶-0020 Lee et al that their invention is directed towards a "differentiated services" device. The differentiated services device includes a traffic metering unit, a storage congestion metering unit, and a marking unit. In Fig. 6 and ¶-0135 Lee et al disclose an accounting unit (324), which as disclosed in ¶-0097 is for billing purposes. In ¶0356 lee et al disclose that the actual time that a user is requesting services from the provider is "calculated", 5<sup>th</sup> sentence, by subtracting the Last Conforming Cell (¶-0150) from the arrival time. Later in ¶-0356 lee et al discloses the use of a "token bucket" ("TB") which contains an adjusted required time between information elements. The "required time between informational elements (STEP 212) is adjusted to account for debt incurred by a previous informational element (¶-00356, 8<sup>th</sup> sentence.) Therefore, Lee et al TB reads upon applicant's TB that store reservations because Lee's TB keeps the "required time between informational elements" (arrival time and LCT), i.e., how long a user is

using a specific type of information. Lee et al never specifically disclose reducing the bits of information in the TB. However, Barham et al do disclose in cols. 8 & 11, lines 45-51 & 5 et seq., that the token rate is adjusted upon receipt of notifications of network load and to update the token rate based on the rate flow. To have provided Barham et al teaching of reducing the bits of information in the TB in Lee et al device would have been obvious to a person having ordinary skill in the art because both references are teaching charging the user based on the type of service rendered. See Barham et al, col. 13, lines 35-40.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12, 14, 17, are rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al.

For claims 12, see discussion pertaining to claim 1 and the Lee reference.

Claims 3, 5, 6, 9, 10, 13, 15, 16, 20- 23, 26, & 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

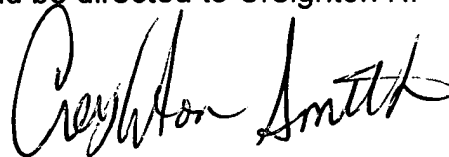
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lialiamou et al.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

03 JAN '07

A handwritten signature in black ink, appearing to read "Creighton H. Smith". The signature is written in a cursive, flowing style.

Creighton H Smith  
Primary Examiner  
Art Unit 2614